

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

JUAN SALAZAR-ESPINOZA,

Defendant.

**8:10CR231**

**ORDER**

This matter is before the court on the court's motion for status conference (Filing No. 66). On June 24, 2013 the court denied the defendant's claims of ineffective assistance of counsel and failure to communicate offered plea agreements. The court appointed counsel for the defendant's remaining claim for failure to file a requested appeal. Filing No. 60. On August 26, 2013, the court granted appointed counsel's request to withdraw as counsel for the defendant. Filing No. 65. The court also granted the defendant 60 days to submit additional evidence concerning his remaining claim for failure to file appeal. Filing No. 65. On September 3, 2013, the defendant filed an ethics complaint against his former retained defense counsel. The complaint alleges, among other things, that the defendant requested a copy of his legal file from his retained defense counsel and has never received a copy of same. The court ordered the instant status conference to determine whether retained defense counsel's legal file had ever been provided to the defendant or the government.

Counsel for the government has agreed to locate within 30 days that portion of retained defense counsel's file relating to any discussions or documentation concerning

appeal of the defendant's conviction and sentencing and to provide the defendant a copy of same.

The court notes that this period is outside the 60-day response date for the defendant previously set by the court in Filing No. 65. The court finds that the defendant's response date to submit additional evidence concerning his remaining claim for failure to file appeal shall be extended for 60 days following the government's deadline for obtaining retained defense counsel's legal file.

IT IS ORDERED:

1. The government shall produce within 30 days any and all portions of retained defense counsel's legal file pertaining to discussions, correspondence or documentation of an alleged request by the defendant for appeal of his criminal conviction.

2. The responsive pleading deadlines set in Filing No. 65 are extended. Pro se defendant Juan Salazar-Espinoza is given until **January 7, 2014**, to submit any additional evidence and briefing on the remaining issue relating to whether defense counsel James M. Davis failed to file a requested timely appeal of his conviction. The government shall have 30 days thereafter to respond with further evidence and briefing. The matter will then be deemed submitted to the court.

Dated this 7<sup>th</sup> day of October, 2013.

BY THE COURT:

s/ Joseph F. Bataillon  
United States District Judge